

Before the
Federal Communications Commission
Washington, DC 20554

OCT 7 2002
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In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Chicago Public Schools)	File No. SLD-317888
Chicago, Illinois)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45✓
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: October 4, 2002

Released: October 7, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed **by** Chicago Public Schools, Chicago, Illinois.¹ Chicago Public Schools **seeks** review of a decision issued by the Schools and Libraries Division (SLD) **of** the Universal Service Administrative Company (Administrator), rejecting Chicago Public Schools' appeal on the grounds that it was untimely filed.² For the reasons set forth below, we affirm SLD's rejection and deny Chicago Public Schools' Request for Review.

2. SLD issued a Funding Commitment Decision Letter on April 24, 2002, approving Chicago Public Schools' request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD approved Chicago Public Schools' request for discounts for telecommunications services, Funding Request Numbers (FRNs) 839707 and 839833.⁴ On July 9, 2002, Chicago Public Schools filed **an** appeal of SLD's decision stating that the Cermak Teachers Academy was removed and excluded from the Chicago Public Schools' FCC Form 471 Application Number 317888, by SLD in error and requesting reinstatement of the

¹ Letter from Arlene Love, Chicago Public Schools, to Federal Communications Commission, tiled August 27, 2002 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Arlene Love, Chicago Public Schools, dated April 24, 2002 (Funding Commitment Decision Letter).

⁴ *Id*

school in its application.⁵ On July 11,2002, SLD issued an Administrator's Decision on Appeal indicating that it would not consider Chicago Public Schools' appeal because it was received more than 60 days after the April 24,2002 Funding Commitment Decision Letter was issued.⁶ Chicago Public Schools subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued on or after August 13,2001 under section 54.720(b) of the Commission's rules, any such appeal must be filed with the Commission or SLD within 60 days of the issuance of the decision that the party seeks to have reviewed.' Documents are considered to be filed with the Commission or SLD only upon receipt.' Because the Chicago Public Schools' Request for Administrator Review was not filed within the requisite 60-day period, we affirm the Administrator's Decision on Appeal and deny the instant Request for Review.

4. To the extent that Chicago Public Schools is requesting that we waive the 60-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.⁹ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause." Chicago Public Schools has not shown good cause for the untimely filing of its initial appeal besides stating that Chicago Public Schools was not aware that Cermak Teacher's Academy had been removed from its FCC Form 471 Application until June 26,2002, after the 60-day time limit for appeals."

5. We conclude that Chicago Public Schools has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹² In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeal to SLD within the established deadline **if** the applicant wishes its appeal to be considered on the merits. The April 24,2002 Funding Commitment Decision Letter clearly states that "your appeal must be ... RECEIVED BY THE SCHOOLS AND LIBRARIES

⁵ Letter from Arlene Love, Chicago Public Schools, to Schools and Libraries Division, Universal Service Administrative Company, tiled July 9, **2002** (Request for Administrator Review).

⁶ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Arlene Love, Chicago Public Schools, dated July 11,2002 (Administrator's Decision on Appeal).

⁷ 47 C.F.R. § 54.720(b). *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. **96-45**, Order, FCC 01-376 (rel. December 26, 2001), as-corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. December 28,2001 and January 4,2002).

⁸ 47 C.F.R. § 1.7.

⁹ *See* 47 C.F.R. § 54.720(b)

¹⁰ *See* 47 C.F.R. § 1.3

¹¹ Request for Review,

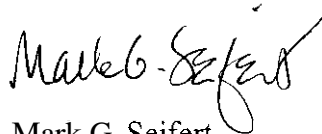
¹² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

DIVISION (SLD) ... WITHIN 60 DAYS OF THE ... DATE ON [THE FUNDING COMMITMENT DECISION LETTER]."¹³

6. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the burden of adhering strictly to its filing deadlines.¹⁴ In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeal to be considered on the merits. An applicant must take responsibility for the action or inaction of those employees, consultants and other representatives to whom it gives responsibility for submitting timely appeals of SLD funding decisions on its behalf. Here, Chicago Public Schools fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find no basis for waiving the appeal filing deadline.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Chicago Public Schools, Chicago, Illinois, on August 27, 2002, and the request to waive the 60-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹³ Funding Commitment Decision Letter at 2.

¹⁴ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. November 24, 2000), para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").